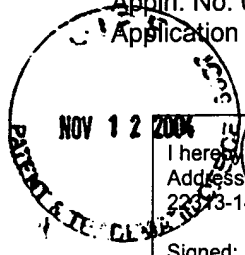


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DAC
IFW

Appln. No. 09/870,821
Application for PTA dated Nov. 12, 2004

PATENT
Customer No. 22,852
Attorney Docket No. 04853.0073-00



CERTIFICATE OF EXPRESS MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 12, 2004. Express Mail Label No.: EV606104328US	
Signed: <i>Athena E. Pretory</i>	<i>[Signature]</i>
Athena E. Pretory	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
SEMBA, Hisashi et al.)	Group Art Unit: 1651
)	
Application No.: 09/870,821)	Examiner: SAUCIER, Sandra E.
)	
Filed: June 1, 2001)	
)	
For: ENZYME REACTION METHOD AND A)	Confirmation No.: 8411
METHOD FOR ENZYMATICALLY)	
PRODUCING AN OPTICALLY ACTIVE)	
CYANOHYDRIN)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT

In accordance with 37 C.F.R. § 1.705(b), Applicants hereby apply for patent term adjustment under 35 U.S.C. § 154(b) of ninety-three (93) days. This application is being filed before or with the issue fee payment, as required by 37 C.F.R. § 1.705(b).

I. Statement of the Facts Involved

A. Correct Patent Term Adjustment

Applicants received the Determination of Patent Term Adjustment with the Notice of Allowance and Fee(s) Due mailed from the Patent and Trademark Office (PTO) on August 30, 2004, advising that this application is entitled to five (5) days of patent term adjustment.

Applicants have calculated a patent term adjustment of ninety-three (93) days based on the following facts:

The Information Disclosure Statement filed on December 2, 2003, was filed within 30 days of the mailing date of the European Search Report dated November 6, 2003. The Information Disclosure Statement filed December 2, 2003 included an affirmative statement that each item of information contained in the Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart application and that the communication was not received by any individual designated in 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement as required under 37 C.F.R § 1.704(d). A copy of the communication from the European Patent Office dated November 6, 2003, was also enclosed with the Information Disclosure Statement. Therefore, the 88 days subtracted from the patent term adjustment is incorrect.

Relevant Dates

The above-identified application was filed June 1, 2001.

The Restriction Requirement was mailed on February 5, 2003, resulting in a PTO delay of 188 days beyond the 14 months provided by 35 U.S.C. § 154(b).

The non-final Office action was mailed on May 1, 2003.

A response by the Applicants was filed on September 5, 2003, resulting in Applicants' delay of 35 days.

Applicants filed an Information Disclosure Statement from the prior art reported in the European Search Report on December 2, 2003, which is within 30 days of the mailing date of the European Search Report dated November 6, 2003.

Applicants then filed a Notice of Appeal on May 21, 2004, resulting in Applicants' delay of 60 days.

Thus, the total PTO adjustment based on delays is 188 days and the reduction in term adjustment is 95 days, resulting in a patent term adjustment of 93 days total. Applicants respectfully request that the current patent term adjustment be reconsidered.

B. Terminal Disclaimer

The above-identified application is not subject to a Terminal Disclaimer.

C. Reasonable Efforts

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

II. Fee

As required by 37 C.F.R. § 1.705(b)(1), the Director is hereby authorized to charge the required fee of \$200.00 to our Deposit Account No. 06-0916. Please charge any deficiencies to our Deposit Account No. 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 12, 2004

By: 

William R. Lambert
Reg. No. 44,857
Customer No. 22,852